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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 10/785,227
Filing Date: February 25, 2004
Appellant(s): ADAMS ET AL.

Frederick E. Cooperrider
(Reg. No. 36,769)
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 01/12/2009 appealing from the Office action mailed 07/02/2008 (Final Rejection) and 09/08/2008 (Advisory Action).

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

US-5,953,050	09-1999	Kamata et al.

US-2004/0162877 A1	08-2004	Van Dok et al.
US-2004/0161090 A1	08-2004	Digate et al.
US-6,018,346	01-2000	Moran et al.

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Independent **claim 15** is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claim 15 specifies a signal bearing medium embodying a program of machine-readable instructions. The signal bearing medium is further disclosed to include transmission media such as digital and analog communication links and wireless (in paragraph 0138). Transmission media such as digital and analog communication links and wireless signals are non-statutory subject matter. This subject matter is not limited to that which falls within a statutory category of invention because it is not limited to a process, machine, manufacture, or a composition of matter. Instead, it includes a form of energy. Energy does not fall within a statutory category since it is clearly not a series of steps or acts to constitute a process, not a mechanical device or combination of mechanical devices to constitute a machine, not a tangible physical article or object which is some form of matter to be a product and constitute a manufacture, and not a composition of two or more substances to constitute a composition of matter.

Claim 14 is rejected under 35 U.S.C. 102(b) as being anticipated by **Kamata et al. (US Patent Publication # 5,953,050).**

Consider **claim 14**, Kamata et al. show and disclose a service comprising at least one of:

conducting an online meeting in which any or all nodes participating in said online meeting receives a composite image of said online meeting that is potentially customized for each said node, wherein at least one of a size and a layout of subpanes of the composite image are controlled by user-specified rules (Abstract and column 1, lines 21-27 which disclose that the claimed service provides support for conducting an online meeting in which the system allows each participant to watch other participants he or she wants to watch in a desired array of a composite image (example shown in Fig. 2A), thereby disclosing potential customization for each node; Fig. 2A which show the display area divided into 3x3 panes to accommodate nine different participants in a video conference, with pane 6 (speaker's location) being displayed larger than the other participants, whereas in Fig. 2B, a matrix of 2x2 panes of larger size is displayed, with the speaker at location 4 sharing the same pane size as the other participants, and Fig. 8 in which the speaker is prominently displayed by occupying 75% of the size, whereas the remaining seven participants are 25% of the size each; Figs. 22A-22B further show corresponding controls for a layout of the subpanes instead of their sizes; column 4, lines 9-10 which disclose that the invention allows a composite image created as specified by each receiving terminal to be sent to it; column 6, lines 19-32 further

disclose an image selection and combination unit 24 (shown in Fig. 5) is responsive to a signal for specifying how images are to be combined from a terminal that is to receive a composite image, i.e. an instruction to combine images in an arrangement that the user at the terminal desires, to select an output of the first image reduction and storage unit 21 and outputs of one or more second image reduction and storage units 22 pixel by pixel, thereby disclosing that at least one of a size and a layout of subpanes of the composite image are controlled by user-specified rules);

operating one of said nodes in said online meeting in which said customized composite images are possible (Abstract and column 1, lines 13-35 that further disclose image reduction means for the speaker and non-speaker terminals, image storage and image readout control units that display a plurality of reduced images on one display screen, and an image selecting and combining unit for generating a customized composite image and outputting it to receiving terminals);

calculating a composite image in said online meeting (Abstract that discloses a video conferencing system that generates a composite image of the conference participants and displays the image on the receiving terminals, customized to each participant's specification (layout based rules); Figs. 3 and 7 that show different components of the system for image reduction, composite image creation, and image display units, etc.; column 1, lines 56-65 disclose multiple CODECs being used to calculate sizes for different image components of the composite image; Fig. 8 that shows a sample composite image for a select participant's specifications; column 1, lines 21-35 disclose an example of customization of the composite image based on participant # 6 being the

speaker; column 2, lines 31-41 disclose some additional rules used during creation of the composite image).

Claims 1, 2 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Van Dok et al. (US Patent Application Publication # 2004/0162877 A1)** in view of **Digate et al. (US Patent Application Publication # 2004/0161090 A1).**

Consider **claim 1**, Van Dok et al. show and disclose a method of providing a composite data feed for an online meeting (Abstract that discloses a real-time online communications such as instant messaging with enhancements that provide composite data feed; Fig. 2B shows such a composite display 222 (After) between two users; paragraphs 0044-0048 describe the details of the method), said method comprising at least one of:

providing a capability for at least one participant node in said online meeting to input a layout rule for a customized composite image of said online meeting to be seen specifically at said at least one participant node (Figs 2B and 5A that show a capability provided at one participant (Bryan) to display the incoming messages from another participant (Kurt) in bold font and his own messages in indented italic font; Fig. 5A that additionally shows an extensible emoticon (☺) replacing a textual representation in the incoming message on Bryan's display, thereby disclosing a customized composite image of the online meeting; paragraph 0048, lines 13-18 which disclose that either default formatting or user's personally selected representative formatting may be used

for the customized composite image displayed, thereby disclosing the use of a layout rule for at least one participant node).

However, Van Dok et al. do not specifically disclose receiving a layout rule defining a composite image of said online meeting that can be customized for at least one participant node in said online meeting.

In the same field of endeavor, Digate et al. disclose the claimed method, including receiving a layout rule defining a composite image of said online meeting that can be customized for at least one participant node in said online meeting (Abstract that discloses a rules-based real-time messaging system that includes a rules engine, which receives a layout rule for controlling the delivery of messages to users; Figs. 2, 7 and 9 show the relevant details of the disclosed method; paragraph 0040 which discloses that the persistent database 15 (shown in Fig. 2) includes configuration data (interpreted to correspond to layout rules reflecting user preferences and group definitions) related to the delivery of messages to the participants; paragraphs 0062-0063 and 0102 disclose the same details).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to receive a layout rule defining a composite image of said online meeting that can be customized for at least one participant node in said online meeting, as taught by Digate et al., in the method of Van Dok et al., so that the composite image of an online meeting can be presented to the participants based on the layout rules customized to each participant's preferences and configuration.

Consider **claim 2,** and **as it applies to claim 1 above**, Van Dok et al., as modified by Digate et al., further disclose the claimed method, wherein said layout rule comprises a Boolean combination of conditions (in Digate et al. reference, Table of Fig. 9, disclosing a meeting being scheduled when a participant is online and the video is available, thereby disclosing a Boolean combination of conditions for a layout rule; paragraph 0062 and 0063 disclose additional details).

Consider **claim 15**, Van Dok et al. show and disclose a computer program product embodying a program of machine-readable instructions executable by a digital processing apparatus to perform a method of providing a composite data feed for an online meeting (claims 24-28; paragraph 0068 that discloses the details of the disclosed computer program product; Abstract that discloses a real-time online communications such as instant messaging with enhancements that provide composite data feed; Fig. 2B shows such a composite display 222 (After) between two users; paragraphs 0044-0048 describe the details of the method), said method comprising at least one of: providing a capability for at least one participant node in said online meeting to input a layout rule for a customized composite image of said online meeting to be seen specifically at said at least one participant node (Figs 2B and 5A that show a capability provided at one participant (Bryan) to display the incoming messages from another participant (Kurt) in bold font and his own messages in indented italic font; Fig. 5A that additionally shows an extensible emoticon (☺) replacing a textual representation in the incoming message on Bryan's display, thereby disclosing a customized composite

image of the online meeting; paragraph 0048, lines 13-18 which disclose that either default formatting or user's personally selected representative formatting may be used for the customized composite image displayed, thereby disclosing the use of a layout rule for at least one participant node).

However, Van Dok et al. do not specifically disclose receiving a layout rule defining a composite image of said online meeting that can be customized for at least one participant node in said online meeting.

In the same field of endeavor, Digate et al. disclose the claimed computer program product, including receiving a layout rule defining a composite image of said online meeting that can be customized for at least one participant node in said online meeting (claims 22-23; abstract that discloses a rules-based real-time messaging system that includes a rules engine, which receives a layout rule for controlling the delivery of messages to users; Figs. 2, 7 and 9 show the relevant details of the disclosed method; paragraph 0040 which discloses that the persistent database 15 (shown in Fig. 2) includes configuration data (interpreted to correspond to layout rules reflecting user preferences and group definitions) related to the delivery of messages to the participants; paragraphs 0062-0063 and 0102 disclose the same details).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to receive a layout rule defining a composite image of said online meeting that can be customized for at least one participant node in said online meeting, as taught by Digate et al., in the computer program product of Van Dok et al., so that the composite image of an online meeting can be presented to the

participants based on the layout rules customized to each participant's preferences and configuration.

Claims 3-7 and 9-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Van Dok et al. (US Patent Application Publication # 2004/0162877 A1)** in view of **Digate et al. (US Patent Application Publication # 2004/0161090 A1)** and further in view of **Kamata et al. (US Patent Publication # 5,953,050).**

Consider **claim 3,** and **as it applies to claim 1 above**, Van Dok et al., as modified by Digate et al., disclose the claimed method, further comprising: receiving data feeds from a plurality of nodes included in said online meeting (in Van Dok et al. reference, Fig. 2B showing composite image display of Bryan's (After) display showing data feeds received from both Bryan's and Kurt's nodes).

However, Van Dok et al., as modified by Digate et al., do not specifically disclose calculating a composite data feed image for said at least one participant node, said composite data feed image complying with said layout rule.

In the same field of endeavor, Kamata et al. disclose the claimed method, including calculating a composite data feed image for said at least one participant node, said composite data feed image complying with said layout rule (Abstract that discloses a video conferencing system that generates a composite image of the conference participants and displays the image on the receiving terminals, customized to each participant's specification (layout based rules); Figs. 3 and 7 that show different

components of the system for image reduction, composite image creation, and image display units, etc.; column 1, lines 56-65 disclose multiple CODECs being used to calculate sizes for different image components of the composite image; Fig. 8 that shows a sample composite image for a select participant's specifications; column 1, lines 21-35 disclose an example of customization of the composite image based on participant # 6 being the speaker; column 2, lines 31-41 disclose some additional rules used during creation of the composite image).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to calculate a composite data feed image for said at least one participant node, said composite data feed image complying with said layout rule, as taught by Kamata et al., in the method of Van Dok et al., as modified by Digate et al., so that the composite image of an online meeting can be presented to the participants based on the layout rules customized to each participant's preferences and configuration.

Consider **claim 4,** and **as it applies to claim 1 above**, Van Dok et al., as modified by Digate et al. and Kamata et al., further disclose the claimed method, wherein said layout rule specifies at least one of:
a size of a display pane in said composite image of a given feed involved in said online meeting (in Van Dok et al. reference, Fig. 6A After blocks 604 that shows a dynamically sized pane to contain the text of an entire message, so that the user need not scroll in order to view the entire message; paragraph 0062 provides additional

details);

a relative size of said display pane of said given feed (in Kamata et al. reference, Fig. 8 that shows relative sizes of different panes for various image feeds);

a position of said display pane of said given feed (in Kamata et al. reference, Fig. 9 that shows X and Y-Coordinates being determined from Hsync (horizontal) and Vsync (vertical) signals of video data of a display pane for a given feed; column 10, lines 14-46 disclose the process in more details);

a status of an owner of said given feed (in Digate et al. reference, paragraph 0012, lines 1-3 which disclose a rules-based real-time messaging system in which an availability status of users is maintained for each user); and

a type of said given feed (in Van Dok et al. reference, column 2, lines 38-41 which disclose that each terminal is allowed to select an image from a terminal other than the speaking end).

Consider **claim 5,** and **as it applies to claim 3 above**, Van Dok et al., as modified by Digate et al. and Kamata et al., disclose the claimed method, further comprising transmitting said composite data feed image for display on a display device (in Kamata et al. reference, column 3, lines 62-67 which disclose that a composite image containing plurality of reduced images of the participants' environment is displayed on a single display screen of a participant).

Consider **claim 6,** and **as it applies to claim 3 above**, Van Dok et al., as modified by Digate et al. and Kamata et al., further disclose the claimed method, wherein said calculating is accomplished at a server remote from said at least one participant node (in Digate et al. reference, Fig. 1 that shows the Communication Server 18, the Messaging Server 14, and the Database Server 15 separated from the Messaging Clients by Network 20; in Kamata et al. reference, Fig. 1 that shows a Multi-Location Video Conferencing Control Unit 3 and a Multi-Image Combiner 4 performing calculations for composite image, are remotely located (by ISDN Network 2) from the participating Video Conferencing Terminals; column 1, lines 21-27 disclose the same details).

Consider **claim 7,** and **as it applies to claim 3 above**, Van Dok et al., as modified by Digate et al. and Kamata et al., further disclose the claimed method, wherein said calculating is accomplished at one of said at least one participant node's location (in Kamata et al. reference, Fig. 4 that shows an MCU 3 associated with a Broadcasting Terminal A, performing calculations for image generation/transmission to terminals B and C; column 2, lines 31-38 disclose the same details); and a level of video activity, including at least one of an amount of overall movement and a number of moving figures.

Consider **claim 9,** and **as it applies to claim 3 above**, Van Dok et al., as modified by Digate et al. and Kamata et al., further disclose the claimed method,

wherein said calculating the data feed includes at least one of:
an amount of audio activity, including a number of different speakers (in Kamata et al. reference, column 2, lines 31-38 which disclose that in order to determine which participant is currently acting as a speaker, MCU3 (in Fig. 4) may detect the level of a voice signal from each terminal to thereby determine the terminal having the maximum voice level, thereby corresponding to the speaker); and
a level of video activity, including at least one of an amount of overall movement and a number of moving figures.

Consider **claim 10,** and **as it applies to claim 3 above**, Van Dok et al., as modified by Digate et al. and Kamata et al., disclose the claimed method, said method further having at least one of the following capabilities:
said receiving of data feeds is from one or more distinct network types;
at least one node in said online meeting can serve as a data feed source (in Kamata et al. reference, column 2, lines 38-41 which disclose that each terminal is allowed to select an image from a terminal other than the speaking end, thereby disclosing that at least one node in said online meeting can serve as a data feed source).

Claims 8 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Van Dok et al. (US Patent Application Publication # 2004/0162877 A1)** in view of **Digate et al. (US Patent Application Publication # 2004/0161090 A1)** and further in view of **Moran et al. (US Patent Publication 6,018,346).**

Consider **claim 8,** and **as it applies to claim 1 above**, Van Dok et al., as modified by Digate et al., further disclose the claimed method, wherein said receiving said layout rule is periodically checked so that said at least one participant node is able to revise said layout rule until one of:

said at least one participant node exits said online meeting (in Digate et al. reference, Table of Fig. 9, showing an example of the logical structure of rules that control the operation of the rules engine; paragraph 0062, lines 18-28 which disclose events such as the presence of various participants being monitored to indicate any changes in the presence, and making corresponding changes in the composite images being presented, thereby disclosing that the layout rule may be periodically checked for any revisions until at least one participant node exits said online meeting).

However, Van Dok et al., as modified by Digate et al., do not specifically disclose that said at least one participant node is able to revise said layout rule until said at least one participant node exits said online meeting.

In the same field of endeavor, Moran et al. disclose the claimed method, wherein said at least one participant node is able to revise said layout rule until said at least one participant node exits said online meeting (column 2, lines 27-45 which disclose a domain object class that defines attributes, a set of action rules and layouts, the attributes defining the data associated with the meeting domain object and the underlying attribute values capable of changes, based on user actions (e.g. via a gesture) performed on an icon representing an instance of the meeting domain object,

or upon the occurrence of a system event (such as the presence of a participant), thereby disclosing that said at least one participant node is able to revise said layout rule until said at least one participant node exits said online meeting).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to allow said at least one participant node to revise said layout rule until said at least one participant node exits said online meeting, as taught by Moran et al., in the method of Van Dok et al., as modified by Digate et al., so as to provided added flexibility in presenting the composite image to the online meeting participants, based on the specific environment of the meeting.

Consider **claim 11**, Van Dok et al. show and disclose a method of providing a composite data feed for an online meeting that can be seen uniquely at a participant node (Abstract that discloses a real-time online communications such as instant messaging with enhancements that provide composite data feed; Fig. 2B shows such a composite display 222 (After) between two users; paragraphs 0044-0048 describe the details of the method; Figs 2B and 5A that show a capability provided at one participant (Bryan) to display the incoming messages from another participant (Kurt) in bold font and his own messages in indented italic font; Fig. 5A that additionally shows an extensible emoticon (☺) replacing a textual representation in the incoming message on Bryan's display, thereby disclosing a customized composite image of the online meeting at Bryan's display; paragraph 0048, lines 13-18 which disclose that either default formatting or user's personally selected representative formatting may be used for the

customized composite image displayed, thereby disclosing the use of a customized layout rule for at least one participant node).

However, Van Dok et al. do not specifically disclose calculating a composite image of said online meeting that is to be seen uniquely at a participant node, wherein a layout rule for said calculating said composite image can be dynamically changed during a course of said online meeting.

In the same field of endeavor, Digate et al. disclose the claimed method, including disclosing a layout rule for calculating a composite image (Abstract that discloses a rules-based real-time messaging system that includes a rules engine, which uses a layout rule to control the delivery of messages to users; Figs. 2, 7 and 9 show the relevant details of the disclosed method; paragraph 0040 which discloses that the persistent database 15 (shown in Fig. 2) includes configuration data (interpreted to correspond to layout rules reflecting user preferences and group definitions) related to the delivery of messages to the participants; paragraphs 0062-0063 and 0102 disclose the same details).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to use a layout rule to define a composite image of an online meeting that can be customized for at least one participant node in said online meeting, as taught by Digate et al., in the method of Van Dok et al., so that the composite image of an online meeting can be presented to the participants based on the layout rules customized to each participant's preferences and configuration.

However, Van Dok et al., as modified by Digate et al., do not specifically disclose that a layout rule for calculating the composite image can be dynamically changed during a course of said online meeting.

In the same field of endeavor, Moran et al. disclose the claimed method, wherein a layout rule for calculating the composite image can be dynamically changed during a course of said online meeting (column 2, lines 27-45 which disclose a domain object class that defines attributes, a set of action rules and layouts, the attributes defining the data associated with the meeting domain object and the underlying attribute values capable of changes, based on user actions (e.g. via a gesture) performed on an icon representing an instance of the meeting domain object, or upon the occurrence of a system event, thereby disclosing that a layout rule for calculating the composite image can be dynamically changed during a course of said online meeting).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to use a layout rule for calculating the composite image that can be dynamically changed during a course of an online meeting, as taught by Moran et al., in the method of Van Dok et al., as modified by Digate et al., so as to provided added flexibility in presenting the composite image to the online meeting participants, based on the specific environment of the meeting.

Claims 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Kamata et al. (US Patent Publication # 5,953,050)** in view of **Digate et al. (US Patent Application Publication # 2004/0161090 A1).**

Consider **claim 12**, Kamata et al. show and disclose an apparatus comprising at least one of:

a calculator to calculate a customized composite image to be presented to a participant node in an online meeting, said calculator receiving a plurality of feeds related to said online meeting and calculating said customized composite image in accordance with a layout rule set that defines a composite image to specifically be presented to said participant node (Abstract that discloses a video conferencing system that generates a composite image of the conference participants and displays the image on the receiving terminals, customized to each participant's specification (layout based rules); Figs. 3 and 7 that show different components of the system for image reduction, composite image creation, and image display units, etc.; column 1, lines 56-65 disclose multiple CODECs being used to calculate sizes for different image components of the composite image; Fig. 8 that shows a sample composite image for a select participant's specifications; column 1, lines 21-35 disclose an example of customization of the composite image based on participant # 6 being the speaker; column 2, lines 31-41 disclose some additional rules used during creation of the composite image).

However, Kamata et al. do not specifically disclose a graphical user interface to allow a participant node in an online meeting to provide a layout rule set for a customized composite image of said online meeting that is to be seen at said participant node; a receiver to receive a layout rule set that defines a customized composite image

to be presented to a participant node in an online meeting, and that the composite image is calculated in accordance with a layout rule.

In the same field of endeavor, Digate et al. disclose the claimed apparatus, including a graphical user interface to allow a participant node in an online meeting to provide a layout rule set for a customized composite image of said online meeting that is to be seen at said participant node (Fig. 4 that shows different steps in setting up a user's (participant node) request for a real time (online) meeting, including various criteria (comprising a layout rule) for selecting group participants that affect the customized composite image to be presented to the requesting user; paragraphs 0045-0052 describe the process in more details, including using a graphical user interface for communicating participants inputs to the system);

a receiver to receive a layout rule set that defines a customized composite image to be presented to a participant node in an online meeting, and disclosing a layout rule for calculating a composite image (Abstract that discloses a rules-based real-time messaging system that includes a rules engine, which uses a layout rule to control the delivery of messages to users; Figs. 2, 7 and 9 show the relevant details of the disclosed method; paragraph 0040 which discloses that the persistent database 15 (shown in Fig. 2) includes configuration data (interpreted to correspond to layout rules reflecting user preferences and group definitions) related to the delivery of messages to the participants; paragraphs 0062-0063 and 0102 disclose the same details).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include a graphical user interface to allow a

participant node in an online meeting to provide a layout rule set for a customized composite image of said online meeting that is to be seen at said participant node; a receiver to receive a layout rule set that defines a customized composite image to be presented to a participant node in an online meeting, and disclosing a layout rule for calculating a composite image, as taught by Digate et al., in the apparatus of Kamata et al., so that the composite image of an online meeting can be presented to the participants based on the layout rules customized to each participant's preferences and configuration.

Consider **claim 13**, Kamata et al. show and disclose a system comprising:
a first participant node (Fig. 1, that shows a number of Video Conferencing Terminals 1; column 1, lines 21-27 which disclose the same details);
at least one of a second participant node and a data feed node (Fig. 1, that shows a number of Video Conferencing Terminals 1; column 1, lines 21-27 which disclose the same details; column 2, lines 38-41 which disclose that each terminal is allowed to select an image from a terminal other than the speaking end, thereby disclosing a data feed node); and
a network interconnecting said first participant node to said at least one of a second participant node and a data feed, said network thereby providing an online meeting including said first participant node (Fig. 1, ISDN Network 2 that interconnects the terminals, including a second participant node and a data feed, with Multi-Location Video Conferencing Control Unit (MCU) 3 and Multi-Image Combiner 4; Abstract which

discloses that the system provides support for an online meeting for the terminals participating in the meeting),

wherein said first participant node receives a customized composite image of said online meeting to be presented specifically to said first participant node (Abstract and column 1, lines 21-27 which further disclose that the system allows each participant to watch other participants he or she wants to watch in a desired array of a composite image (example shown in Fig. 2A); Fig. 3 shows a multiplicity of CODECs and other computational hardware to form the composite image displayed on the participants' terminals).

However, Kamata et al. do not specifically disclose that the composite image is calculated in accordance with a layout rule.

In the same field of endeavor, Digate et al. disclose the claimed system, including disclosing a layout rule for calculating a composite image (Abstract that discloses a rules-based real-time messaging system that includes a rules engine, which uses a layout rule to control the delivery of messages to users; Figs. 2, 7 and 9 show the relevant details of the disclosed method; paragraph 0040 which discloses that the persistent database 15 (shown in Fig. 2) includes configuration data (interpreted to correspond to layout rules reflecting user preferences and group definitions) related to the delivery of messages to the participants; paragraphs 0062-0063 and 0102 disclose the same details).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to use a layout rule to define a composite image of an

online meeting that can be customized for at least one participant node in said online meeting, as taught by Digate et al., in the system of Kamata et al., so that the composite image of an online meeting can be presented to the participants based on the layout rules customized to each participant's preferences and configuration.

(10) Response to Argument

To begin with, the appellants state in the "Status of Amendments" section that the examiner refused entry of the after-final amendment filed on August 18, 2008, as allegedly raising a new issue even though the amendment merely incorporated contents of an existing dependent claim into independent claims. The examiner would like to respond that such amendments, after final rejection, changed the scope of the independent claim 14 rejected under 35 U.S.C. 102 (b) to rejection under 35 U.S.C. 103 (a), which would have placed additional burden on the examiner to rewrite the rejections.

The appellants have presented eight different grounds for review by the Board of Patent Appeals and Interference. The examiner would like to summarize the issues raised for each ground under review and present his response to the issues raised.

a. **Ground 1: The 35 U.S.C. 101 rejection of claim 15**

The appellants disagree with the examiner's interpretation of "transmission media" being associated with a "signal", which they agree is reasonably non-statutory under the holding of *Nuijten;* further arguing that "energy" or "signal" per se is not used to store computer instructions, and therefore, claim 15

is simply not directed to either "energy" per se or to a "signal" per se. The appellants further argue that there simply is no currently known method that either a signal or a medium through which transmission occurs could even possibly be used for storage of instructions.

Examiner's response:

The appellant's specification paragraph 0138 includes the following text: "or other suitable signal-bearing media including transmission media such as digital and analog and communication links and wireless.", when describing storing instructions on a variety of machine-readable data storage media. The appellants thereby have themselves associated "signals" with "transmission media".

In a wireless transmission, carrier waves, which are a form of very high frequency electromagnetic waveforms, are modulated by the machine-readable instructions in the form of digital signals, then transmitted from a source to a destination, where the composite waveform is demodulated to recover the machine-readable instructions. While in transit, the instructions are stored over the carrier wave transmission media, similar to television program signal broadcasts, or optical networks using light waves as a carrier transmission medium. The carrier waveform, whether electromagnetic or optical, is a form of radiation energy, as any basic textbook in physics will describe. Therefore, the appellants' argument that "there is simply no currently known method that a transmission medium could even possibly be used for storage of instructions", is

simply not true. Furthermore, the examiner has successfully resolved similar 101 rejections with other applicants, including several IBM cases, by slightly modifying the claim text to exclude non-allowable transmission media. Therefore, the examiner recommends that the 35 U.S.C. 101 rejection of claim 15 be upheld.

b. **Ground 2: The 35 U.S.C. 102 rejection of claim 14, based on Kamata**

The appellants argue that the user of Kamata's (U.S. Patent Publication # 5,953,050) system cannot avail themselves of an arbitrary size ratio of its two images in which the current speaker's image is the larger pane; therefore, the method of Kamata inherently and clearly do not use "user specified rules" as this term is defined in the specification. The appellants at various times cite how, in their specification, the user specified rules are defined. The appellants then state that "although the mechanism in Kamata permits each user to make customized selections; this mechanism is clearly not using the layout rules described in the present application, that each user must enter".

Examiner's response:

Column 4, lines 9-10 in the Kamata reference disclose that "the invention allows a composite image created as specified by each receiving terminal to be sent to it". Column 6, lines 19-26 in the Kamata reference further disclose that "An image selection and combination unit 24 is responsive to a signal for specifying how images are to be combined from a terminal that is to receive a composite image, i.e. an instruction to combine images in an arrangement that the user at

that terminal desires, to select an output of the first image reduction and storage unit 21 and an output or outputs of one or more second image reduction and storage unit 22 pixel by pixel". Instead of naming them "user specified rules", Kamata has used the word "instructions" for the user input to combine images in an arrangement that the user desires. Whether or not the Kamata reference uses the phrase "instruction" in place of "user specified rules" is not significant. The same end result can be achieved by using phrases like "settings", "configuration", "options", "selections" or "preferences", etc. Furthermore, by providing "pixel by pixel" control over image size selections, the Kamata reference does indeed provide means to specify any arbitrary relative size or layout of sub-panes, that the appellants argue that only their invention, not Kamata reference, provides (on page 13, lines 4-5). The appellants also cite different locations in their specification (on page 12) that describe their "user-specified rules", but the examiner can only give consideration to what is disclosed in the claim, not in the specification. The examiner therefore strongly recommends that the rejection of claim 14 be maintained, as the cited Kamata et al. reference provides enough support and adequate teaching to anticipate claim 14 in its entirety.

c. **Ground 3: The 35 U.S.C. 103 (a) rejection of claims 1 and 15, based on Van Dok et al., in view of Digate et al.**

The appellants argue that the term "composite" is defined differently in the Van Dok reference, and is not consistent with the meaning in the present

application, as the Van Dok reference is not even directed to "layout rules". Also, no separate sub-panes are shown in the Van Dok reference. Instead, all of one user's input is displayed in a 2" x 2" window, located in the top left hand corner of the overall composite image, with all of the second user's input displayed in a smaller window, located in the bottom right. The appellants also argue that their specification describes a "video meeting environment", not an instant messaging meeting.

Examiner's response:

The composite images of Van Dok et al. (U.S. Patent Application Publication # 2004/0162877 A1), as shown in Figs. 3, 4 and 6B, not only display text messages in an online instant messaging meeting, but also show tables, file icons and emoticon images. In the broadest interpretation of the term "composite" image, consistent with the appellants' specification, such representations of displayed content in an online meeting, does qualify the Van Dok prior art for selection as a reference in rejecting claims 1 and 15. The examiner further states that, in the absence of describing what a layout rule means (in terms of limitations) in claims 1 and 15 (not in the specification), the examiner is justified to consider the layout features used in the Van Dok reference (in terms of using bold font for incoming messages, and indented italicized font for outgoing messages, as well as the use of extensible emoticon ☺, etc. as an applicable layout rule. In addition, the indentation of outgoing

message text and replacing the textual representation of emoticons with extensible emoticons "☺" do represent layout changes in the content display. Furthermore, the examiner begs to differ with the appellants' argument that the 2" x 2" display windows in the Van Dok reference do not qualify as sub-panes. Such a representation does meet the broad definition of a sub-pane in a displayed window.

In response to the appellants' argument that their specification describes a "video meeting environment", not an instant messaging meeting, the examiner would like to point out that what is being rejected is what is in claims 1 and 15, not what is disclosed in the specification. If the claims were appropriately amended to include the limitations that are being pointed out in this appeal, the basis for rejection or allowance would have been different. The examiner therefore recommends maintaining the rejection of claims 1 and 15, until they are further limited to point out features distinct from those cited by the examiner's references.

d. **Ground 4: The 35 U.S.C. 103 (a) rejection of claim 2, based on Van Dok et al., in view of Digate et al.**

On page 17 of the appeal brief, the appellants argue that the conditions shown in Fig. 9 of Digate et al. (U.S. Patent Application Publication # 2004/0161090 A1) reference are not layout rules of a composite image, and do not provide any indication of "a Boolean combination of conditions".

Examiner's response:

First, the examiner would like to point out that the cited Digate reference was not included to disclose the layout rules of a composite image; as such rules were already disclosed in the Van Dok reference. Second, the Digate reference still discloses use of Boolean combination of conditions (e.g. use of "and", "or" etc.). Fig. 9 in the Digate reference shows logical structure of rules in the if-then-else format of a flowchart, that when coded, results in the use of Boolean operators ("and", "or", "not", etc.). Such operators are in fact disclosed being used in the last line of paragraph 0063. The claim is therefore obvious based on Van Dok in view of Digate, and should remain rejected until amended appropriately.

e. **Grounds 5 and 6: The 35 U.S.C. 103 (a) rejection of claims 3-7, 9 and 10, based on Van Dok/Digate, further yet in view of Kamata et al.**

On page 18 of the appeal brief, the appellants argue that none of the three references describe "layout based rules". Appellants also argue that there is no reasonable rationale to combine these three references. Appellants further argue (on page 19) that there is no motivation to apply the technique of video imaging to the text imaging of Van Dok/Digate in rejection of dependent claim 10.

Examiner's response:

The examiner has already responded to the "layout based rules" argument in claim 1, 14 and 15 (that both Kamata and Van Dok disclose this claim element, even without naming it as "rules"), please refer to those responses for specific text sections cited in these references.

As for the argument against combining these three references, the examiner would like to emphasize that all three references handle online meetings, as does the appellants' invention.

Finally consider the argument that there is no motivation to apply the technique of video imaging to the text imaging of Van Dok/Digate in rejection of claim 10. The examiner again respectfully disagrees and points out that claim 10 does not disclose "techniques of video imaging", again reminding that the examiner can only consider what is disclosed in the claim, not what is described in the specification. Therefore, the argument is without any merit. Additional argument about the "feed source" is clearly disclosed in the Kamata reference (column 2, lines 38-41) stating that "each terminal is allowed to select an image from a terminal other than the speaking end", thereby providing its own "feed source" for the presentation. The examiner therefore recommends maintaining the rejection for claim 10.

f. **Ground 7: The 35 U.S.C. 103 (a) rejection of claims 8 and 11, based on Van Dok/Digate, further yet in view of Moran et al.**

The appellants (on page 20) argue that the Moran reference has nothing whatsoever to do with layout rules of an online meeting composite image. The appellants also argue that the combination of the cited references would still not demonstrate "layout rules for a customized composite image of an online meeting".

Examiner's response:

The examiner's response to the use of Moran reference is that in the 103(a) rejection for these claims, the Moran reference (US Patent Publication # 6,018,346) was not included to disclose each and every claim feature, only a claim element missing from the other two references, such as dynamically changing rules, which the Moran reference clearly discloses (in column 2, lines 27-45), as referenced in the examiner's final rejection office action. The examiner has already responded to the "layout rules" argument in claims 1, 14 and 15.

g. **Ground 8: The 35 U.S.C. 103 (a) rejection of claims 12 and 13, based on Kamata/Digate.**

On page 21 of the appeal brief, the appellants repeat the same argument that the secondary reference of Digate has nothing to do with layout rules; Digate's rules describe how information is to be delivered, not how it is to be displayed.

Examiner's response:

The examiner's response is that the layout rules including how information should be delivered is disclosed adequately by Kamata et al. reference. The examiner included the Digate reference only to provide support for using a graphical interface to enter user inputs for rules, and calculating the results for composite rules using a rules engine.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/K. G. B./

Examiner, Art Unit 2443

April 10, 2009

Conferees:

/Tonia LM Dollinger/

Supervisory Patent Examiner, Art Unit 2443

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